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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,843	09/22/2003	Michael Johnson	2098/US	4980
20686	7590	02/14/2006		
DORSEY & WHITNEY, LLP INTELLECTUAL PROPERTY DEPARTMENT 370 SEVENTEENTH STREET SUITE 4700 DENVER, CO 80202-5647			EXAMINER GIBSON, ROY DEAN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/668,843	Applicant(s) JOHNSON ET AL.	
	Examiner Roy D. Gibson	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-11 and 13-52 is/are pending in the application.
- 4a) Of the above claim(s) 21-24,31-33 and 40-44 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,6-10 and 16-20 is/are allowed.
- 6) ☐ Claim(s) 11,13-15,25-27,34-39 and 45-52 is/are rejected.
- 7) ☐ Claim(s) 28-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Restriction

Newly submitted claims 21-24, 31-33 and 40-44 are directed to an invention(s) that is/are independent or distinct from the invention originally claimed for the following reasons: as to claims 21-24, 31-33 the invention is a tubular body for a catheter or lead; and for claims 40-44, a method of manufacturing a tubular body for a catheter or lead.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-24, 31-33 and 40-44 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Therefore, claims 1, 6-11, 13-20, 25-30, 34-39 and 45-52 are currently under examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 13-14, 25-27 and 45-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Hauser et al. (5,052,407).

As to claims 11 and 13-14, Hauser et al disclose a lead system for eliciting an electrical response from tissue, comprising;

a lead body (10) solid in lateral cross-section (Figures 1 and 2);

Art Unit: 3739

a lead tip (16) operably connected to the lead body;
a first electrically conductive element integrally formed with the lead body (18);
a first energy delivery element (pulse generator or power source) operably connected to the first electrically conductive element;
a second electrically conductive element integrally formed with the lead body;
and
a first electrical sensing element operably connected to the second electrically conductive element (additional separate conductive surfaces and conductor to perform ECG sensing, cardiac pacing, etc, (diagnostic apparatus: col. 3, line 46-col. 5, line 14 and col. 7, lines 31-64).

Further to claim 13, Hauser et al. disclose a stylette (22) and a lumen for the stylette (Figure 16 and col. 4, lines 32-55 and col. 7, lines 31-64).

Further to claims 25-27, Hauser et al. disclose that longitudinally extending conductive region (electrode # 64) and non-conductive region (66) are formed by extrusion, which would inherently include the conductive element (18 and col. 7, lines 31-36).

Further to claims 45-52, Hauser et al. disclose a cardiac electrode or catheter which can partially be formed of a polyurethane layer with integral lead wire(s) or a trace (inherent in the use of more than one lead wire (Figure 17 and col. 7, lines 1-36).

Art Unit: 3739

Claims 34-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Diaz (5,824,026). Diaz discloses a catheter comprising:

a tubular body portion comprising first and second concentric polymer layers (Figure 2, # 17 and 32);

a conductive element (metal fibers) longitudinally extending between the concentric layers;

and

a bond between the concentric layers; and an electrode (Figure 1, # 24 or 26) operably coupled to a distal end of the catheter with the conductive element (col. 4, line 11-col. 5, line 24).

In claims 34, 36 and 38, the method of forming the bond is interpreted as a product by process and, therefore, not given any patentable weight (see MPEP 2113 [R-1] since the final catheter of Diaz is the same as claimed.

Allowable Subject Matter

Claims 1, 6-10 and 16-20 are allowed.


Claims 28-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roy D. Gibson
Primary Examiner
Art Unit 3739

February 6, 2006